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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,240	12/03/2003	Robert R. Cantwell	NPUS-P008	7510
32986	7590	11/22/2005	EXAMINER	
IPSG, P.C. P.O. BOX 700640 SAN JOSE, CA 95170-0640			CANFIELD, ROBERT	
			ART UNIT	PAPER NUMBER
			3635	
DATE MAILED: 11/22/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/728,240

Applicant(s)

CANTWELL, ROBERT R.

Examiner

Robert J. Canfield

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-17 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/05/04.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

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1. This is a first Office action on the merits for application serial number 10/728240 filed 12/03/03. Claims 1-17 are pending.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 and 5-9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 2,230,454 to Friesner et al.

Friesner provides an arched shaped awning above a mesh screened window. The window is considered in proximity to the floor. Inner and outer seams/hems 19 and 22 form flexible support members and hold rod 21 is provided.

4. Claims 1-3, 5-9 and 13-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,165,757 to Marks.

Marks provides an arched shaped awning 146 above a mesh screened window 160. The window is considered in proximity to the floor. Inner and outer seams/hems form flexible support members and hold rod 116 is provided. Marks also provides roof vent 166.

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 2,230,454 to Friesner.

Friesner provides each of the elements of the claims as noted above except for specifying the dimensions of the window, that the window is less than 12 inches from the floor and that there is an additional opening near the top of the tent.

The dimensions of the window are viewed as a choice of design which would have been obvious at the time of the invention to having ordinary skill in the art. One of ordinary skill in the art would have readily recognized that the window/awning of Friesner could have been varied in size without departing from the spirit of the invention. Similarly, it would have been obvious to one having ordinary skill in the art at the time of the invention that the window/awning could have positioned as matter of design choice closer to the floor, or roof for that matter, than shown in the figures of Friesner.

Providing an additional vent near the roof to promote convection is well known in the art and also would have been obvious at the time of the invention to one having ordinary skill in the art.

7. Claims 4, 10-12, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,165,757 to Marks.

Marks provides each of the elements of the claims as noted above except for specifying the dimensions of the window, that the window is less than 12 inches from the floor and that there is an additional opening near the top of the tent.

The dimensions of the window are viewed as a choice of design which would have been obvious at the time of the invention to having ordinary skill in the art. One of ordinary skill in the art would have readily recognized that the window/awning of Marks could have been varied in size without departing from the spirit of the invention. Similarly, it would have been obvious to one having ordinary skill in the art at the time of the invention that the window/awning could have positioned as matter of design choice closer to the floor or roof for that matter than shown in the figures of Marks.

8. The examiner acknowledges receipt of the IDS received 04/05/05. An initialed copy of the 1449 form is attached.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

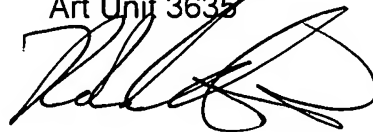
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6840. The examiner can normally be reached on M-Th.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield
Primary Examiner
Art Unit 3635



11/11/05